The Constitution and Personal Liberty.

SPEECH

OF

Hon. ARTHUR HOLMES,

OF

CORTLAND.

In Assembly March 9, 1859.

n Committee of the Whole on "An act to protect the rights and liberties ofthe citizens of the state of New York."

rise, Mr. Chairman, with unfeigned embar-ament, to express my views on the subject ad before the committee.

naccustomed to parliamentary debate, and ating the weight of experience which is re-ja ed the essential prerogative of mature or lage, I can only ask your favorable considera-ic of what I may advance, as it is enforced by ament, as it is the earnest expression of hon-burpose, and the utterance of a sincere con-ion.

ne interest involved in the measure under oideration is of gigantic magnitude. It is no other than the question of human rights—hright to life, liberty and the pursuit of hap-piss. The desire of liberty in its general sense as its origin coeval with the race. Political ividuality, however, is a growth of modern ivization. It was not an element in the struc-u of the old republics. With them the in-tidual was regarded only as a part of the ta, and his worth was rated according to the pe he occupied in the public structure. Men re so morticed, and grooved, and dovetailed, nframed into the general edifice, that person-li became a myth.

Admire as we may this consecration to the nic weal, the absence of political individu-li, a just sense of personal liberty, constituted no of the saddest features of ancient civilization; aing this, no form of popular government ane enduring.

lom the bleak and barren wilds of North pe came this spirit of personal liberty. The ty Northmen having overthrown the Roman or, engrafted upon her municipal insti-utns the rights of the individual. Work-ng up through the incrustation of arbitrary ur which held subject all Europe, the spirit f rsonal liberty—the popular prerogative—av an earnest of its power in the creation of he tates-General of France, the Independencies of Italy, the Confederacies of Germany, and the *Magna Charta* and Constitution of Britain. This was a new power in its early development. Its maintenance rested in the fidelity of its adherents. These had stamped the impress of their character on the laws of England. No power could wipe out that impress. But the restraints of despotic power coerced the champions of liberty to abandon the Old World and seek the shores of the New, that here they might make a fuller revelation of the inherent rights of man, both civil and religious. Here also, was felt the strong arm of aggressive power in persistent effort to crush out the growing life of free principles. The effort failed. Elastic and unconquerable, the spirit of liberty hurled back despotic power and won for herself a habitation and a name. The American people declared the cardinal principles of their faith, embracing at once the theory and fundamentals of their future government. The step thus taken was as successful as it was bold. The innovation was complete. That which had hitherto been made subjective was now set in authority. The *people* were elevated to the throne.

With a fearlessness that challenges admiration, those who spoke for the young nation proclaimed that "We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator *with certain unalienable rights;* that among these *are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men,* DERIVING THEIR JUST POWERS FROM THE CONSENT OF THE GOVERNED."

Upon these principles was the government predicated. But in our days a different opinion has obtained. The cardinal feature in our declaration of rights is denied, and it is boldly asserted that the government was not instituted for all the people, but a part only. Legislation has conformed, to a greater or less extent, to this opi-

nion, and judicial decrees sustaining it have been fulminated from the bench.

I propose briefly to examine this new doctrine and the legislation which has grown out of it.

Slavery, planting itself upon the soil of Virginia almost simultaneously with the landing of the pilgrims, existed for a long series of years without the shadow of law for its protection; nay more, in open violation of law, until, increased in magnitude, it came to wield the authority of the state in its own defense. From such beginnings it spread through the colonies.

Animated by a broad and catholic spirit, the Fathers threw the shield of the declaration of rights over "*all men;*" and in our approach to the constitution we come first to the preamble, the vestibule that leads to the sacred temple. This unfolds the purpose and aim of the constitution. Here breathes the spirit of liberty: "We the people of the United States, in order to form *a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare and* SECURE THE BLESSINGS OF LIBERTY TO OURSELVES *and our posterity, do ordain and establish this constitution for the United States of America.*" The preamble asserts the purpose and intent of the constitution—the establishment of *freedom*, not slavery. In confirmation of this design, we have the recorded testimony of those who drafted, perfected and gave to it their indorsement. No more authoritative testimony could be desired.

During the discussion in the convention, which involved the subject of slavery, Gouverneur Morris, of Pennsylvania, declared his unequivocal hostility to the slave system: "He never would concur in upholding domestic slavery. It was a nefarious institution. It was the curse of Heaven on the state where it prevailed." Elbridge Gerry would guard against giving sanction to the system. Roger Sherman "was opposed to any tax on slaves imported, because it implied they were property" Mr. Madison regarded it "*wrong to admit in the constitution the idea that there could be property in man,*" to avoid the appearance of an indorsement of the system. The word "servitude" was struck out of a clause of the proposed constitution, on motion of Mr. Randolph, of Virginia, and the word "service" inserted. "The former," in the language of Mr. Madison, "was thought to express the condition of slaves, the latter the obligations of free persons." Again, says Madison, "where slavery exists the republican theory becomes still more fallacious." General Washington, with that calm dignity which so eminently characterized him, says, in a letter to Mr. Mercer, "it is among my first wishes to see some plan adopted by which slavery in this country may be abolished by law."

These brief citations will suffice to indicate the animus of those who created the constitution to show their fixed purpose to conform the national chart to the essential principles set forth in the preamble, and in the address of the continental congress to the people, at the close of the revolution. "Let it be remembered," said this high authority, "that it has ever been the pride and boast of America, that the rights for which she has contended were *the rights of human nature.* By the blessing of the Author of *these rights*, they have prevailed over all opposition, and FORM THE BASIS of thirteen independent states."

This is the voice of the nation giving utterance to the national heart; speaking in language th cannot be mistaken. Its authority is above question. Here then we rest. On the declarati of rights; on the authoritative expression of t continental congress; on the express language the preamble of the constitution; on the lett of that instrument itself; and on the person testimony of those who were founders of t government, I take my stand. Standing on t broad doctrine, so firmly laid, that the gover ment was founded on the principle of the equ rights of all men, my position is distinctive national, and whatever conflicts therewith mu necessarily be local in its nature and sectional its character.

Without further preliminaries I advance d rectly to the consideration of the measure whi is immediately involved in the passage of t bill now before us. This measure is know as the Fugitive Slave Bill; an act conceiv in open defiance of the Constitution and devo of every element of humanity and justic Many times unconstitutional as it is, I shall lim my remarks to an exposition of a few of t most palpable and direct infractions of the Co stitution.

The common law has ever defended Person Liberty. In its early days, when cruel and u defined, trial by jury was held inviolate. whatever ground a fugitive was claimed as slave—whether by seizure or legal process—t party claimed had a right to demand a jury tri The law insured it. The spirit of the comm law was comprehensive. Failing as it may ha done, to secure justice at all times, neverthele its indisputable principles place the Liberty every man under the guard of trial by jury.

It is a glorious maxim of the common la worthy all commendation, that "he is cruel a impious who does not always favor Freedom Imbued with this spirit, a great Commentat has declared that "the law is always ready catch at anything in favor of Liberty." T power of the common law was thoroughly e amined in the famous Somersett case, and it w explicitly determined that a claim for a fugiti slave was "a suit at common law."

On the basis of the law thus broadly laid w reared the Constitution. That its founders we conversant with the principles of law which th prevailed we cannot doubt. While we m not employ the common law as an instrume for the interpretation of the National Constit tion, we may, with propriety, introduce it collateral testimony in elucidation of all tho provisions of the Constitution which rest fund mentally on that law. Among these are such involve the rights of persons. In two distinc specific provisions, the Constitution throws t ægis of its protection over the individual. language familiar to all it provides that "N *person* shall be deprived of life, *liberty* or pr perty, *without due process of law.*" This provisio securing, as it unquestionably does, trial by ju as inseparable from a "due process of law," w not regarded a sufficient guaranty. The dete mined friends of Freedom would leave no roo for doubt—no chance for subterfuge; Elbrid Gerry and others refused their signatures to t Constitution unless these were engrafted upon as an additional safeguard.

In answer to the popular demand, the fir Congress recommended an amendment whi

bsequently became a part of the Constitution. he language of this provision is explicit: "In its at common law, where the value in contro-ersy shall exceed twenty dollars, the right of ial by jury shall be preserved."

At this point I wish to express my profound knowledgment to the honorable gentleman om New York (Mr. Tomlinson), for the consti-tional argument submitted by him on the bill r the trial of certain offenses, had under consi-eration yesterday. It applies directly to the ill before us. It comes home with a fullness id clearness not to be mistaken.

I listened with extreme pleasure to the honor-le member, who, in his zeal for another measure, monstrated, unwillingly perhaps, but none the ss effectually, the necessity and the constitu-onality of an act to protect and secure the ghts and liberties of every person.

With a power of logic, of which the gentleman so eminently a master, he wrought a chain of gument which binds him, and all such as think ith him, to the support of the measure I now vocate. I congratulate the immediate friends the Personal Liberty Bill on the acquisition their numbers of so able an advocate.

In whichever light the question be regarded, hether as property or personal liberty, trial by ry is guaranteed to the person claimed for rvice.

The provisions of the fugitive act preclude e possibility of regarding the procedure under as preliminary. It provides that those pro-edings must be had in the state where the gitive is found, and secures to the claimant mplete control over the person of the fugitive. he trial, then, is one of final adjudication, and volves the determination of the two conditions, at the party claimed was *held* to service, and at his service was *due* to the claimant. This o-fold question of *fact* and of *law* is in issue. is not enough that the fugitive be *charged*, he ust be *held* to SERVICE in the state from which e is alleged to have escaped.

If we regard this as merely a question of pro-erty, we rest the fugitive bill in judgment at e tribunal of the south. That decision has een rendered; its authority ought not to be rought in question.

Mr. Smith, of South Carolina, in a debate on e floor of the senate, in 1817–18, on the Fugi-ve Slave Bill, zealous for the rights of property, jected to its reference, under a writ of habeas rpus, to a judge without a jury. He says:

"This would give the judge the sole power of eciding *the right of property the master claims in s slaves*, instead of trying that *right by a jury, as escribed by the constitution*. He would be judge matters of law and matters of fact; clothed ith all the powers of a court. Such a system unknown to your system of jurisprudence. *our constitution has forbid it;* it preserves the ght of trial by jury in all cases where the value controversy exceeds twenty dollars."

This authority has been asserted with equal earness and force by the courts. In 6 Whea-n 407, it was determined that a *suit* "is the rosecution of some claim, demand or request." he designation of the court (3 Peters, 456), of hat constitutes a suit at commou law, clearly nbraces the case of the fugitive from service. nd again, in 8 Peters, 44, where the question Freedom was involved, the court held that "The matter in dispute is the freedom of the petitioners. *This is not susceptible of pecuniary valuation.* No *doubt* is entertained of the juris-diction of the court."

These several decisions affirm what is clearly expressed in the Constitution. These, however, proved ropes of sand in restraining the slave masters from enacting the fugitive bill, whereby they sought to conserve their own ends.

Should a demand be made by a Virginian for and have the question put in issue before a jury. his horse which had escaped into this State, he would be required to prove title to his property, Is a horse of more value than the liberty of a man? No such safeguard is thrown around the slave. He is summarily examined. He is al-lowed no time to procure witnesses. No counsel is assigned him. Indeed, the law does not pre-sume that the person claimed can have any defense to offer. On the presentation of a cer-tificate of testimony taken in any other State, or the declaration of any one who will come for-ward and swear to that effect, the party claimed is sent away to hopeless bondage. How absurd the assertion that if he be wrongfully adjudged, he can secure a fair trial in the State to which he is remanded. Before what court may he ap-pear to prove his freedom? What means has he wherewith he can retain a lawyer? How shall he summon his witnesses? If such he have, they are his colored friends living a thousand miles away. Were they at hand, their testimony would not be received as evidence in Southern ourts. And, more, such persons could not step upon the soil of many of the Southern States, without being subject to arrest—imprisonment—and sale, to defray the expenses thus incurred by their unjust imprisonment. No, Sir, the Act denies *in toto* "due process of law" to the case of the fugitive claimed for service.

The fugitive, however, is not claimed as pro-perty. In one instance, this act does not run against the Constitution, but bases its demand on "service or labor due." Whether this was intentional or accidental I will not attempt to say. The slave oligarchy asserts, however, and with much earnestness, that the slave is property, and so recoguized in the Constitution. No man of common intelligence, unless for selfish ends, or from a profound ignorance of the history and character of the Constitution and the laws of nature, will be found upholding a sentiment so false aud obnoxious as that our fundamental law makes man property—that he is or can, by any inductiou, be transformed from a man into a thing.

It has been permitted that the states may hold slaves *as* property under their local law. That they are *made* property by those laws is granting man power to overthrow the decrees of the Al-mighty, and on their ruins erect a structure of his own. Whence comes this right? from supe-rior physical power? Then does the title of pro-perty in my weaker neighbor vest in me. Admit the principle, and it can be confined to no limits. Not the line of the skin, the place of nativity or the strength of the muscle, can determine where property inheres. No authority but brute force can be brought as sponsor for so great an outrage.

This property consideration is vital to the slave interest, and needs to have its absurdities exposed, since the boldness and impudence of its

assertions are reeeived by some weak minds as sound arguments. My purpose will not, however, permit me to linger at this point. It suffiees for the present to know, what we have found clearly established, that in whichever way the fugitive be regarded, whether as person or property, he ean in no instance be dclivered up under the Constitution without due proeess of law, whieh insures trial by jury.

Again is the Fugitive Slave Act uneonstitutional, in that it is a usurpation by Congress of powers not granted by the Constitution, and is an infraetion of the rights reserved to the States.

The Constitution is explieit on the powers eonferred upon the General Government, and just as distinct in reserving all others to the States in their sovereign eapacity. In addition to these rights granted and reserved are certain eompaets between the States and the nation. Among these we find that clause on whieh is based the offensive act for the rendition of fugitives from serviee.

As in all cases where facts are offensive, we find this elause, its nature and history enveloped in a tissue of false eonstructions and misstatements. Yet an appeal to history clears our path from the haze that has been thrown upon it.

Thcre are, in the Constitution, eonditions whieh are denominated eompromises. To this class, it is said, belongs the clause relative to fugitives from service. I do not so understand it.

The first eompromise was not sectional, but between States. The small States demanding an equal representation in Congress, which the large States refused to eoncede, it was finally agreed that the States should have equal suffrage in one branch of the national legislature, and aeeording to population in the other. This was the first eompromise.

What should eonstitute the basis of representation was the next question at issue. This was likewise adjusted by mutual concession. It was determined that three-fifths of the slaves should be ineluded in the representative population. This was the second compromise.

We come next to the provision which permitted the importation of African slaves for twenty years subsequent to the adoption of the constitution. This was conceded from certain commercial considerations on the part of the more northern and eastern states. This was the third compromise.

These compromises are a matter of record; a part of the history of the constitutional convention. If there are still others engrafted on the constitution, we must go to the record for our authority. What are the facts?

The convention met in Philadelphia, May 25, 1787. A plan of government was submitted on the 29th of the same month, by Mr. Randolph, of Virginia. It made no allusion to fugitives from service. Mr. Pinckney, of South Carolina, submitted another plan at the same time. This was silent on fugitives from service, but contained a clause for the surrender of fugitives from justice. A third plan was reported, on June 15th, by Mr. Patterson, of New Jersey. This, like its predecessors, contained no allusion to fugitives from slavery, but did provide for those escaping from justice. Only three days later Mr. Hamilton announced his plan. Like all the others it was silent on fugitives from service. The convention having agreed on the general outlir of the proposed constitution, submitted it a committee, whose office was to reduce it to for This plan was silent on that subject which are now informed was a compromise. The co mittee reported a draft of the constitution on t 6th of August, and, strange as it may appear, one had thought to notice the fugitives fr service; while a elause was embraced providi for the rendition of such as should escape fro justice. Three months had passed in caref deliberation, and this most essential feature the constitution had not as yet received t slightest notice. At last, on the 29th of Augu the clause relative to fugitives from service w suggested. Mr. Madison's record informs us th on the next day the clause was proposed fo mally and adopted without a dissenting voice.

What evidence have we in the history of th clause to constitute it a compromise? How is a compromise? Where is the equivalent? Wh was surrendered from the south to the nortl A compromise rests on mutual concession What coneessions do we find here? None. Tl history of the convention gives no evidence a compromise. The face of the constitutic bears no indication of it. Where then shall w find it?

The argument based on the juxtaposition the clause under consideration and the one ha ing reference to those escaping from justice is little force, when the dissimilarity of the tw clauses is taken into consideration. The prov sion for surrender of fugitives from justice based on the comity of nations, is distinct in i provisions, and explicit in its requirement The charge against the culprit is not the dictu of any person, but is a judicial or magisteri charge; and the demand is made only by th executive of the State. The question in issue one of fact; and the wrong person is arrested the peril of the officer. A writ of *habeas corpu* would immediately liberate the party unjustl arrested. On the other hand the provision rela tive to fugitives from service is negative merely It imposes no obligation or duty. It lays n command on the executive or other authority o the states, but simply denies to the states powe to void the claims of citizens of other states t labor and service. It enunciates a general nega tion. "No person held to service or labor i one state, under the laws thereof, escaping int another, shall, in eonsequence of any law o regulation therein, be discharged from such ser vice or labor, but shall be delivered up on clain of the party to whom such service or labor ma be due." Action under this clause constitutes question of fact, and a question of law. Of fact as to the identity of the party claimed; of law whether the party so claimed owes service. I power the two sections differ widely.

Look still further at the position of this clause Under article fourth of the Constitution, sectio first contains a compact securing faith and credi in each state to the public acts, records and ju dicial proceedings of every other state. This compact is accompanied with a grant of powe through which Congress may secure the objec above specified. The second section contain three subdivisions which are nothing more no less than simple compacts, two of which are borrowed directly from the old articles of con federation. Both subdivisions of the third sec-

on are grants of power to Congress, unaccom-
nied by compact. The fourth section is neither
wer nor compact, but an imposition of a
lemn duty.

All the legislative power vested in Congress
roceeds from the general grant under section
ght, article first, and from specific grants. In
alyzing article fourth we find no power at-
ched to the clause providing for the rendition
fugitives from service. Indeed we find those
auses which do contain a grant of power care-
lly separated and the simple compacts collated
themselves. Yet more, from the proceedings
the constitutional convention it is evident
it was not intended to couple any grant of
wer with this clause. There was constantly
anifested a careful watchfulness over the rights
the states. On the same principle was the
option of the Constitution urged. "The states
ere amply guarded against an infraction of their
ghts. Congress would never presume on ex-
cising undelegated authority."

Why did not the Convention, when confering
on Congress power "to establish an uniform
le of naturalization, and uniform laws on the
bject of bankruptcy throughout the United
tates," also grant an equivalent power to pro-
ide by general enactment for the return of fugi-
ves from labor? Why, as in other instances,
as there not conferred upon the General Govern-
ent, in connection with the clause itself, spe-
ific provisions for its general execution? The
amers of the Constitution were careful men.
hey did not say one thing when they meant
mething directly the opposite. They designed
establish a National Government, one that
ould be supreme, yet so hedged about as to
reserve inviolate the sovereignty of the states.
either could infringe on the rights of the other
ithout endangering the stability of both. In
nfirmation of this we have the highest author-
y. I need only quote the language of Jefferson,
name endeared to all lovers of liberty and free
erritory.

"Our meanest rill, or mightiest river,
Rolls mingling with his fame forever."

"The several states," says Jefferson, "com-
osing the United States of America are not uni-
ed upon the principle of unlimited submission
o the General Government; but by compact, un-
er the style and title of the Constitution of the
nited States and of the amendments thereto,
hey constituted a General Government for spe-
ial purposes, *delegated to that Government certain definite powers*, reserving each state to itself, the
esiduary mass of right to their own self-govern-
ent, and that wheresoever the General Govern-
ent assumes undelegated powers, its *acts are un-
uthorized, void, and of no force.*"

The Constitution addresses itself to the Legis-
atures of the states or the states themselves, thus
hrowing the burden of legislation upon them.
n accordance with this power several of the
tates have on former occasions passed enact-
ents relative to the rendition of persons claimed
s owing labor. The manner in which that shall
e done rests on the good faith of the parties.
Should the states refuse to enact laws favorable
o those seeking runaways, I know of no redress.
The Constitution confers none. The states are
nly prohibited from granting a discharge from
such service or labor."

Grant the proposition that wherever the Constitution confers a right or enjoins a duty, a power vests in the General Government to enforce the right or compel the performance of the duty, and you bestow an unlimited source of power on the General Government, which will first subvert and then overthrow the rights of the states, and on their ruins establish a consolidated central power.

It is unsafe at all times, to base legislative action on implied power. Doubly so where the most vital of all questions is effected thereby: the interests of personal liberty. On the strength of implied power Congress has presumed to exercise its functions in the enactments of fugitive slave laws. Yes sir, on the strength of implied authority has this precedent been established. Once made existent it comes down with the weight of authority and the terrible force of judical approval. I am aware, sir, of the decision of the court in the case of Priggs *vs.* Pennsylvania. I remember with equal distinctness the decision confirming the constitutionality of the National Bank. The latter was set at nought by high authority. Relative to the former I have only to say, that no decision of a court can make that constitutional which is utterly opposed to both the spirit and the letter of the constitution. The court is not a creating power. If the act were unconstitutional before the decision it is none the less so now.

The Fugitive Slave Act of 1793 was acknowledged unconstitutional inasmuch as it imposed the duties of its execution on officers of the States. Mr. Mason, of Virginia, admitted this while the present act was under debate in the Senate. Again, in his speech, he declares that the mandate to deliver up is "addressed to the *jurisdiction of the State* into which the fugitive may have escaped." A fatal admission for a supporter of the bill on constitutional grounds

This act is thrust upon the country under circumstances of the most aggravating character. In South Carolina, Louisiana and other Southern States, the moment a colored man lands upon their soil he is seized and thrust into prison. He may be a citizen of New York, engaged in his lawful occupation. That matters not. If the vessel in which he came leaves, and the charges of expense for his unjust imprisonment are not paid, he is thrust upon the auction block and sold to pay his own jail fees.

These barbarities are consummated under the abused name of State Sovereignty. Overreaching State power, the Constitution is invaded when it provides that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several states." I admit it to be the province of each State to determine who shall be citizens thereof. This determination once made, entitles the citizen of any State to the protection of the Constiution in his enjoyment of those rights in any one or all of the States. The lessons thus taught by Southern States may turn to plague the inventors. The Constitution must be preserved inviolate, but it is time that New York asserted her rights; time that the free States extended their own citizens.

There is not, in the Fugitive Slave Act a redeeming feature. Violating the Constitution as I have shown, it does the same again and again. Setting aside trial by jury, this act creates a tribunal unknown to the Constitution. It provides

for the appointment of an indefinite number of judges, each of whom is to have exclusive jurisdiction and from whose decree there is no appeal. The only provision made by the Constitution for the appointment of judges is by the President and Senate. Under this act judges, commissioners as they are called, are designated by the courts. Their term of service is at pleasure, and their compensation consists not in a fixed salary, but in a reward, a bribe, a double compensation if the decision be for slavery, the very baseness of which is in perfect harmony with the general tenor of the act. Should it be denied that these officers are judges, the question will be found fully settled by the Supreme Court, 16 Peters, 616.

All citizens are made active participants in the execution of the law. Every commissioner is empowered to appoint official slave catchers at pleasure, and each of these menials may "summon and call to their aid the *by-standers or posse comitatus* of the proper county, AND ALL GOOD CITIZENS ARE HEREBY COMMANDED TO AID AND ASSIST in the prompt and efficient execution of this law whenever their services may be required;" but who shall "aid, abet or assist" the fugitive, "directly or indirectly," to escape, is subjected to the penalty of a heavy fine and imprisonment. The marshal is commanded to execute the warrant under penalty of a fine of $1000. After the arrest, should the supposed fugitive escape, with or without the assent of the marshal, the latter is liable on his bonds for the claimed value of such fugitive. If apprehensive of a rescue, the party to whom the fugitive is awarded may recommit the same to the officer who is required to transport the person claimed to the place whence he is alleged to have escaped. He may employ any force, and all expenses are charged upon the general government.

The paladium of the citizen, the habeas corpus, is stricken down under the specious plea of a *process*. The guaranteed right to a "free exercise of religion" is practically denied, and the award of the commissioner is made under the force of *ex parte* testimony without the privilege of cross-examination.

Such are some of the features of this atrocious act. The interests of slavery are hedged about with every conceivable safeguard. The interests of freedom are trampled in the dust. The rights of the states are ignored. The constitution is prostituted to the basest of purposes. It was not enough to dishonor the nation, but its people must be disgraced to the most ignoble service.

No act more infamous ever saw the light. Search the records of British legislation; ransack the annals of mediæval ages; aye, reach back into the night of heathenism, and drag forth the Draconian Code; hold it up side by side with this law of Christian America. The Christian is more devilish than the heathen. Written in blood as it was, the Code of Draco is honorable in the presence of the Fugitive Slave Act.

Why is it that this act was thrust upon the country? Is this the panacea that heals all wounds and puts to rest the unquiet spirit that would not down? So it was thought; and its supporters in the ecstacy of their joy caught the lyre, and with a poet's vision shouted the pæan of victory and peace:

> "Now is the winter of our discontent
> Made glorious summer;
> And all the clouds that lowered upon our house
> In the deep bosom of the ocean buried."

Fatal delusion! Deeper and darker lowe and must continue to lower, these clouds of d content; while an act so insulting in its d mands, so unconstitutional in its provisior remains upon our statute books and is press for execution. Executed? Is it supposed th this act can be executed? If it can, I ha sadly mistaken the temper and spirit of the pe ple of these Northern States. I do not belie the people of the Empire State are prepared bend the knee in servility so base as this la demands. I may not speak for all, but I ca utter the will of a constituency which I a proud to represent. The people of Cortlar county recognize no act as law which transforn them from men into bloodhounds. Sir: Did believe the people I represent were base enoug to become the contemptible flunkies of a mise able southern slave-hunter, by joining him or h aids in the bloodhound chase of a panting fug tive, I would scorn to hold a seat on this floor l their suffrages, and I would denounce them fit subjects themselves for the scourge of th slave-driver.

They may endure the penalty of this act, bi obey its behests in defiance of the constitutio in defiance of humanity, in defiance of plighte faith and in defiance of God's law, *they never wil*

As a state we are disgraced by this act. I we refuse now to erect a barrier against it, w shall be doubly disgraced. We fold our arm and suffer our citizens to be dragged from ou soil and thrust into slavery. The Fugitive Ac makes no distinction, whether the person ha ever been south of Mason and Dixon's line c not. If the description is answered, *ex part* testimony, taken a thousand miles distant, is re ceived in evidence, and is amply snfficient t secure the rendition of the person claimed t servitude. The history of the working of thi act is replete with instances of this character

By the constitution fugitives are to be restore to those, and those only, to whom service is *due* The means by which it is to be ascertained whe ther the man is a slave, whether he has fled fron his master, and whether the claimant is legally entitled to his service, are not defined by the constitution. That power vests in the states. I has been assumed by congress. If congress is to exercise it, it should be done in accordance with the provisions of the constitution. So clearly are the leanings of that instrument in favor of liberty so palpable is it that slavery can exist only by positive law, nothing but the most forced interpretation can give the shadow of sanctity to this act. All doubts should go to the side of freedom; mercy should touch the balance and incline the scale in favor of the weak and innocent.

What congress has refused to do, the "Liberty Bill" before us proposes to effect; to secure a trial by "due process of law;" to require it proven in court whether the party claimed owes service or labor; and for an attempt to deprive a person of his liberty, proper and deserved punishments are imposed. It comes strictly within the scope of the constitution, and affirms the just power of the state. Is it to be denied to New York to exercise powers, whose equivalents, and more, have been long asserted, and are

dly maintained by southern states? Wherein South Carolina better than New York? With ubting step we follow at a distance in the as- tion of just rights. And yet we are told we plate the constitution. Let gentlemen leave ertion and advance the proof of their decla- ion.

This "Fugitive Slave Act" is more than it ds on its face; it constitutes a link in the ain which is being forged by the slave oligar- y. Slowly, insidiously, but surely has the rk gone forward. A few more links added to chain will bind freemen to submission or ive them to open revolution.

Before us, in all its naked deformity, stands e Dred Scott dictum, which falsifies history, d fact and law. It denies the possibility of izenship to the black man, and makes the nstitution the protector and defender of slavery all the national domain. This fixes the terri- ries, and renders the inhibition of slavery erein by the authorities of such territories an possibility. Well might squatter sovereignty denominated by its progenitors a humbug. elder brother is born in the household. On ther side stand the Fugitive Slave Act and the peal of the Missouri compromise. And now hedge up the only remaining avenue, it is enly demanded on the floor of Congress, by ading Southern Democrats, that the national overnment shall prohibit, by positive enact- ent, the Legislatures of the Territories from olishing slavery therein. The Dred Scott ictnm is to be moulded into statute. Again is emanded the right of transit of slaveholders ith their slaves through the free states. If the ght of transit, then the right to hold slaves in ose states; thence a virtual establishment of avery in all the states of the Union.

Here we are prostrate; bound with more than romethean bonds, and writhing under the con- uming tyranny of the Slave Oligarchy.

Another link in the chain that binds the free tates to the wheel of the slave power. That ower affirms, through its representative, the resident, that,

"The supreme court of the United States has ecided that all American citizens have an equal ight to take into the territories whatever is held s property under the laws of any of the states, nd *to hold such property there under the* GUARDIAN- HIP *of the Federal Constitution*, so long as the ter- itorial condition shall remain. This is now a ell established position."

Again the same power has exerted its utmost nergies to force upon an unwilling Territory a Constitution which affirms that:

"*The right of property is before and higher than ny Constitutional sanction; and the right of an wner of a slave to such slave and its increase, is the ame, and as inviolable, as the right of the owner of ny property whatever.*"

In these affirmations the dominant party can ind nothing inconsistent with the theory of our government; nothing inconsistent with the past history of the country; nothing obnoxious to the Constitution. Sir, if our fathers were luna- ics; if the great principles which they pro- laimed are the products of a disordered fancy; f human bondage rests its sanctity in the essen- ial condition of things, it is well that we be undeceived, though with the intelligence is rushed out, forever, our hopes of the triumph of truth and justice and of the capacity of the people for self government

The determination to render the constitution a base instrument, and to wield it in support of the most gigantic wrong the sun ever looked upon, has been prosecuted with an energy worthy a better cause. No means have been left untried. And now we are coolly informed that the right to hold slaves is antecedent to the constitution, and is paramount to it in authority. Admitting this idea, it is possible that an argument might be deduced in support of the Fugitive Slave Act.

I have alluded to these exponentials of the party which indorses and upholds the Fugitive Act, to show that this measure does not stand alone, an isolated case, but as one element in the grand whole—a code of principles obnoxious to the Constitution and revolting to humanity.

Unconstitutionality is the potent nursery word that falls with terror upon the hearts of grown-up children. When acts of the slave power are brought in question, it matters not when or where or how, the Constitution is thrust in our faces, and we are coolly asked if we intend to violate that instrument. This is the one remedy equally adapted to every disease. Now, sir, no man entertains a greater respect for the Constitution than myself. I would be the last to violate it. It is my devotion to it that stimulates me to advocate the measure now before the committee. I would counsel no act that would impair it. Aye, I would hedge it about with a wall of fire, that Vandal hands might no longer despoil it of its richest gems and then hold it up, polluted, debased, dishonored and robed with the black and loathsome garb of slavery, and demand us all to fall down and do it homage. We cannot be frightened; we will not be driven from our position by this specious cry.

We are willing to rest on the conservative yet broad and comprehensive principle of sound statesmanship, that the constitution should be preserved in its entirety, and that the rights secured to the States should be protected from all infraction, let the assault come from whatever source it may. In so doing alone can the dignity of the general government and that of the states be preserved. To insure trial by jury is enjoined by the Constitution—to provide the means is the duty of the States. A "Personal Liberty Bill" is intended to secure both of these ends. Notwithstanding such is its object it is anathematized as an insult upon the dignity of this House. An insult! Why? Becanse it proposes to protect the citizen from arrest? Because it assists the just power of the State? Or is it because it rebukes the slave power in its asserted prerogative of supreme right in the nation? Or are there those who, forgetting that they were free born, are ready to bend the hireling knee and toss the ready cap? If such there are, let them take home the sentiments of a Virginia representative:

> "Give me the avowed, erect and manly foe,
> Open I can meet, perhaps may turn his blow;
> But of all the plagues, great Heaven, thy wrath can send,
> Save, O save me from *a dough-face friend*."

The passage of this bill is due to us as a State —as a people. It is due to our sister States— those faithful and noble sisters of the east, those young and blooming ones of the west. Some of the former, by statutory enactments, and two of the latter, in the action of their courts, have pre-

ceded us in the maintenance of their State rights. And now they are all waiting for the Empire State to vindicate usurped rights. The Federal Constitution declares its purpose to insure liberty —that of our own State reasserts it, and yet both are trampled in the dust. All action is made to bend to mercenary ends. Higher and grander principles are lost to view.

"Is the dollar only real — God, and truth, and right, a dream?
Weighed against your lying ledgers, must our manhood kick the beam?"

Let the bill pass. Let the state throw the shield of law over every person who treads her soil. Let the Constitution be vindicated and the principles of the Declaration reaffirmed. Let the rule of the supreme court be enforced, though it rests a lance against the dicta of the Dred Scott decision: "When *rights* are infringed, when fundamental principles are overthrown, the legislative intention *must be expressed with irresistible clearness.*"

Rebuke the slave power, and rear a bulwark which it cannot overcome. Meet it, in its wanton aggression, with the strong arm of law resting on the constitution. Let New York prove no traitor in the great contest between Right and Wrong,—between the dominence of free or slave labor. One must triumph on the downfal of the other. Let the word go forth that New York is free,—fully, absolutely, unequivocally emphatically free, and slavery will tremble and cower in its strongholds. Let these tidings go forth, and the sound of joy and rejoicing will echo from hill top to hill top, from valley to valley, throughout the length and breadth of the free states; and these with one accord will place the award of honor on the shrine of the empire state. We can do no less than this without proving recreant to the high responsibilities which are resting upon us. Let us prove faithful to principle, faithful to the people, faithful to the state, faithful to the country, faithful to the Constitution, and leave the consequences, where they well may rest, with the God of nations.